

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA,
NORTHERN DIVISION**

HAZEL M. ROBY, as Administratrix of)
the Estate of RONALD TYRONE)
ROBY, Deceased,)

Plaintiff,

V.

BENTON EXPRESS, INC., et al,)
)
 Defendants.)

CIVIL ACTION NO.: 2:05CV494-T

**DEFENDANT'S MOTION FOR LEAVE TO FILE BRIEF IN REPLY TO PLAINTIFF'S
OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

COMES NOW the Defendant, Benton Express, Inc. and moves the Court for leave to file a brief in reply to the Plaintiff's Opposition (Doc. No. 45) and Supplemental Opposition (Doc. No. 55) to Defendant's Motion for Summary Judgment (Doc. No. 34).

Defendant does not believe that the Plaintiff has demonstrated a genuine issue of material fact sufficient to defeat Defendant's Motion for Summary Judgment. The Plaintiff also has failed to show that Defendant is not entitled to judgment as a matter of law. Nonetheless, Defendant believes that certain issues before the Court need to be clarified, and Defendant also requests that it be allowed to supplement its Motion for Summary Judgment with deposition testimony that was taken after Defendant filed its Motions--just as the Plaintiff has been allowed to do.

WHEREFORE, PREMISES CONSIDERED, Defendant requests leave to file the reply brief that will be submitted electronically immediately following this motion.

Respectfully submitted,

s/ Gregory A. Brockwell
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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following on this the 31st day of January, 2006:

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